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SENATE BILL DRS35082-MQ-42A (02/28)

Short Title: Consolidate State Offices/Digital Docs Req'd. (Public)

Sponsors: Senators Tarte, Brock, and Barefoot (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO CONSOLIDATE OFFICE SPACE USED BY STATE AGENCIES; TO REQUIRE THE CONVERSION OF MOST EXISTING PUBLIC RECORDS INTO DIGITAL FORMAT; TO REQUIRE THAT FUTURE PUBLIC RECORDS BE STORED DIGITALLY; AND TO REQUIRE THE SALE OR DISPOSITION OF STATE-OWNED OR STATE-LEASED REAL PROPERTY THAT IS NO LONGER NEEDED AS A RESULT OF THE ACTIONS TAKEN UNDER THIS ACT.

The General Assembly of North Carolina enacts:

PART I. CONSOLIDATION OF STATE-OWNED OFFICE SPACE

SECTION 1.(a) The Department of Administration shall develop and implement a plan to analyze the current uses of all State-owned or State-leased property, to consolidate State functions into as few facilities as possible, and to sell or otherwise dispose of all property thereby freed up of State functions. The plan shall be subject to the following requirements:

- (1) The plan shall provide for the Department of Administration to visit and analyze each piece of real property owned by, allocated to, or leased by each State agency to determine if the property is unused property or underutilized property. The plan shall require the Department to complete all visits and analyses required by this subdivision by no later than October 1, 2019.
- (2) The plan shall provide for the reallocation of real property among State agencies by no later than December 1, 2019, in a manner that minimizes or eliminates the amount of real property that remains underutilized or unused and that facilitates to the extent feasible the complete removal of State functions from pieces of real property so that property can be disposed of in accordance with subdivision (3) of this section. Reluctance to spread agencies among multiple facilities shall not provide a basis for noncompliance with this subdivision. In making reallocations, the Department shall not cause a reduction in the level of services provided in the various regions of the State.
- (3) Except where the property at issue was purchased exclusively with endowment funds or where otherwise prohibited by the terms of a gift or trust, the plan shall provide for the sale or other disposal of the following properties as soon as possible:
 - a. Any State-owned real property from which all State agencies and functions have been removed as a result of the reallocation of real



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1 property between State agencies pursuant to subdivision (2) of this
2 subsection or G.S. 143-341(4)g.

- 3 b. Any State-owned real property that was used to store public records that
4 is no longer needed for that purpose as a result of the digitization of
5 those records pursuant to Section 2 of this act.

6 **SECTION 1.(b)** The Department of Administration shall make the following reports:

- 7 (1) No later than October 1, 2017, the Department of Administration shall report
8 the details of the plan developed pursuant to subsection (a) of this section to the
9 Joint Legislative Commission on Governmental Operations and to the Fiscal
10 Research Division of the General Assembly.

- 11 (2) Beginning on February 1, 2018, and quarterly thereafter until February 1, 2020,
12 the Department of Administration shall report to the Joint Legislative
13 Commission on Governmental Operations and to the Fiscal Research Division
14 of the General Assembly on its progress implementing the plan created
15 pursuant to subsection (a) of this section. Specifically, the Department shall
16 include information about all of the following in each report:

- 17 a. The number of properties visited and analyzed during the previous
18 quarter, including information about whether and to what extent
19 properties were found to be underutilized or unused.
20 b. Reallocations of real property made during the previous quarter.
21 c. Sales or other dispositions of real property made during the previous
22 quarter.
23 d. Plans for the ongoing implementation of the plan developed pursuant to
24 subsection (a) of this section during the following quarter.
25 e. Agency cooperation with the Department of Administration's actions
26 undertaken pursuant to this section.

27 **SECTION 1.(c)** Notwithstanding any other provision of law, this section and the
28 efforts undertaken pursuant to it apply to all State agencies regardless of whether or not an agency
29 has a partial or complete exemption from any statute related to real property or from Department
30 of Administration oversight of the agency's real property transactions. Nothing in this section shall
31 be construed to authorize the breach of any valid contract.

32 **SECTION 1.(d)** The following definitions apply in this section:

- 33 (1) Real property. – A parcel of land, a building, or space within a building. This
34 term does not include right-of-way property allocated to the Department of
35 Transportation.
36 (2) State agency. – A unit of the executive or judicial branch of State government,
37 such as a department, an institution, a division, a commission, a board, a
38 council, or The University of North Carolina.
39 (3) Underutilized property. – Real property that contains substantial space or
40 facilities that are currently not used on a regular basis by the State agency that
41 owns or leases the property or to which the property is allocated.
42 (4) Unused property. – Real property that is vacant or that is not used for a current
43 program or purpose of the State agency. This term includes real property that is
44 designated for a particular current or future use but that is not actually currently
45 used for that program or purpose.
46

47 **PART II. STORAGE OF NEWLY CREATED PUBLIC RECORDS IN DIGITAL**
48 **FORMAT ONLY**

49 **SECTION 2.(a)** Article 1 of Chapter 121 of the General Statutes is amended by
50 adding a new section to read:

51 **"§ 121-5.1. Digital storage of public records.**

1 (a) Generally. – Notwithstanding any other provision of law, every public record stored by
2 a State agency shall be stored only in digital format, in accordance with rules adopted by the State
3 Chief Information Officer pursuant to subsection (e) of this section. This subsection shall not
4 apply to any of the following:

5 (1) Public records that are not required to be stored or archived under applicable
6 law.

7 (2) Records that are not public records.

8 (b) Destruction of Original Records. – Once digitally stored, all nondigital versions of a
9 public record and all public records that are no longer required to be stored under applicable law
10 shall be destroyed. This subsection shall not apply to any of the following:

11 (1) Public records that are required by federal law to be maintained in paper format.

12 (2) Records that are of historical, cultural, or other enduring significance in their
13 original format, as determined pursuant to subsection (c) of this section.

14 (c) Preservation of Original Records in Certain Situations. – If the custodian of a public
15 record determines the record to be of historical, cultural, or other enduring significance in its
16 original format, the custodian may maintain the record in the original format but shall also store
17 the record digitally in the same manner in which a similar record without historical, cultural, or
18 other enduring significance would be stored. The custodian shall notify the State Chief
19 Information Officer of any action under this section within 60 days.

20 (d) The State Chief Information Officer shall adopt rules to implement this section. These
21 rules shall prescribe at least the following:

22 (1) Measures to be taken by State agencies to ensure that public records are stored
23 and transmitted securely, in a manner that prevents tampering, inadvertent
24 alteration or destruction, and unauthorized access.

25 (2) Measures to ensure that adequate backup copies of all digitally stored public
26 records exist and are readily accessible in the event that they are needed.

27 (3) The file formats in which public records are to be stored. To the extent feasible,
28 these file formats shall be formats that are widely used by the general public.

29 (4) Methods for converting nondigital public records into the appropriate digital
30 format.

31 (5) The form of notification to be used by the custodian of a public record when
32 notifying the State Chief Information Officer that the custodian is maintaining a
33 public record in its original format, as provided for in subsection (c) of this
34 section.

35 (6) Measures to ensure that State agencies supply the State Chief Information
36 Officer with any information needed to complete the reports required by
37 subsection (e) of this section.

38 (7) Proper methods for destroying public records that are no longer required to be
39 stored.

40 (e) Reporting. – The State Chief Information Officer shall make the following reports to
41 the Joint Legislative Commission on Governmental Operations, to the Joint Legislative Oversight
42 Committee on Information Technology, and to the Fiscal Research Division of the General
43 Assembly:

44 (1) A quarterly report on notifications received from State agencies pursuant to
45 subsection (c) of this section.

46 (2) An annual report submitted no later than April 1 of each year on all of the
47 following:

48 a. State agency compliance with the requirements of this section during
49 the previous calendar year.

50 b. Any recommendations for statutory changes that would facilitate greater
51 compliance with the requirements of this section.

- 1 c. Any recommendations the State Chief Information Officer has for
 2 improving the method of storage of public records. In making these
 3 recommendations, the State Chief Information Officer shall take into
 4 consideration all of the following:
- 5 1. The cost to the State to switch from the current method of
 6 storage to the recommended method of storage.
 - 7 2. The operating cost to the State of employing the recommended
 8 method of storage compared to the current method of storage.
 - 9 3. Any differences between the security of the current method of
 10 storage and the security of the recommended method of storage.
 - 11 4. Any differences in the convenience for State agencies of the
 12 current method of storage and the anticipated convenience of the
 13 recommended method of storage.
 - 14 5. An anticipated time line and schedule of costs for statewide
 15 implementation of the recommended method of storage.
 - 16 6. Whether it is in the best interests of the State to store public
 17 records on its own servers using State employees or whether it
 18 would be preferable to contract with a private party to perform
 19 that service.
 - 20 7. A forecast of additional storage needs of the State for the next
 21 five years, if the State Chief Information Officer determines that
 22 storage beyond current capacities will be needed.
 - 23 8. Anything else that the State Chief Information Officer deems
 24 relevant.

25 (f) Section Applies to All State Agencies. – Notwithstanding G.S. 143B-1320(b) or any
 26 other provision of law, all State agencies shall be subject to this section and the rules adopted
 27 pursuant to it.

28 (g) Definition of Public Record. – For purposes of this section, the term "public record"
 29 has the same meaning as in Chapter 132 of the General Statutes."

30 **SECTION 2.(b)** G.S. 143B-1322(c) reads as rewritten:

31 **"§ 143B-1322. State CIO duties; Departmental personnel and administration.**

32 ...

33 (c) Administration. – The Department shall be managed under the administration of the
 34 State CIO. The State CIO shall have the following powers and duty to do all of the following:

35 ...

36 (22) Perform the duties imposed on the State Chief Information Officer under
 37 G.S. 121-5.1."

39 **PART III. DIGITIZATION OF EXISTING PUBLIC RECORDS**

40 **SECTION 3.(a)** Identification of All Public Records Stored by State Agencies. – No
 41 later than November 1, 2017, each State agency shall submit to the State Chief Information
 42 Officer the following information:

- 43 (1) A list of the type of public records stored by the agency.
- 44 (2) An estimate of the quantity of public records stored by the agency.
- 45 (3) An estimate of the increase or decrease in the number of public records stored
 46 by the agency during each of the previous three calendar years.
- 47 (4) A statement of the percentage of the public records stored by the agency that
 48 are stored in digital format.
- 49 (5) An explanation of any ongoing efforts to convert public records into digital
 50 format.
- 51 (6) The file format of any digitally stored public records.

- 1 (7) A list of equipment that the agency possesses or has access to that could be
2 used to convert nondigital public records into a digital format.
- 3 (8) A forecast of the type and quantity of public records that the agency anticipates
4 seeking to preserve in their original format under G.S. 121-5A(c) once that
5 section becomes law.
- 6 (9) A list of the facilities in which the agency currently stores public records,
7 including for each facility the following information:
- 8 a. The total square footage used for public record storage.
- 9 b. What percentage of the State-owned or State-leased space in the facility
10 is used for public record storage.
- 11 c. The annual cost to the State to store public records in the facility.

12 **SECTION 3.(b)** Conversion of Public Records to Digital Format. – The State Chief
13 Information Officer shall develop a plan to convert all public records stored by State agencies into
14 a digital format and shall implement that plan on July 1, 2018. The plan shall be subject to the
15 following requirements:

- 16 (1) The plan shall provide for the conversion of all public records stored by State
17 agencies into a digital format by no later than the effective date of Section 2 of
18 this act.
- 19 (2) The plan shall take into consideration the information received from State
20 agencies pursuant to Section 3(a) of this act and shall prioritize conversion of
21 those public records, the conversion of which will yield the greatest
22 cost-savings to the State over the conversion of other public records.
- 23 (3) The plan shall provide for adequate storage of all public records identified by
24 State agencies pursuant to Section 3(a) of this act once digitized as well as for
25 the anticipated digital storage needs of the State for the following 10 years.
- 26 (4) The plan may provide for any of the following, or any combination of the
27 following:
- 28 a. The purchase of equipment to be used to convert public records into a
29 digital format and to store those records once digitized.
- 30 b. The creation of temporary positions to assist in the conversion of public
31 records and the storage of those records once digitized.
- 32 c. Contracting with third parties to perform some or all of the conversion
33 of public records into a digital format and the storage of those records
34 once digitized.
- 35 (5) The plan may provide for a public record digitization process that is the same
36 for all State agencies or may create different processes for different agencies, in
37 the sole discretion of the State Chief Information Officer.
- 38 (6) The plan shall provide for the destruction of the nondigital originals of all
39 public records once those records are digitized and stored in a manner that will
40 satisfy the requirements of G.S. 121-5.1, except that the originals of any public
41 record or document shall not be destroyed if they would not be destroyed under
42 the provisions of G.S. 121-5.1. The plan shall include a procedure similar to the
43 procedure that will exist under G.S. 121-5.1(c) to allow the custodians of public
44 records to shield certain original public records from destruction in appropriate
45 cases.

46 **SECTION 3.(c)** Reporting. – No later than May 1, 2018, the State Chief Information
47 Officer shall report the details of the plan developed pursuant to Section 3(b) of this act to the
48 Joint Legislative Oversight Committee on Information Technology, to the Joint Legislative
49 Commission on Governmental Operations, and to the Fiscal Research Division of the General
50 Assembly.

1 **SECTION 3.(d)** Definition of Public Record. – For purposes of this section, the term
2 "public record" has the same meaning as in Chapter 132 of the General Statutes.
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4 **PART IV. EFFECTIVE DATE**

5 **SECTION 4.** Section 2 of this act becomes effective October 1, 2019. The remainder
6 of this act is effective when it becomes law.